THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.13769 OF 1997

DATED: 10-04-2007

Between:

T. Syed Saheb

.. Petitioner

and

The Chairman, District Co-operative Central Bank, Chittoor and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.13769 OF 1997

ORDER:

This writ petition is filed seeking a mandamus directing the respondents to treat the period of suspension of the petitioner from 23.07.1986 to 27.09.1988 as on duty and pay full pay and allowances and consequential benefits to him.

It appears, while the petitioner was serving the respondent bank, he was suspended from service with effect from 23.07.1986, pending enquiry into certain allegations levelled against him. Meanwhile, he joined duty on 27.09.1988, in pursuance of the proceedings of the 2nd respondent, dated 19.09.1988, stating that as the departmental enquiry takes much time to dispose of the charges levelled against him, he is reinstated into service. Thereafter, departmental enquiry was conducted, concluded and proceedings, dated 28.12.1993, were issued by the 2nd respondent stating that the petitioner is awarded with a punishment of censure and the period of suspension is treated as leave, for which he is eligible, and further he was advised to be careful in future. Aggrieved by the same, the petitioner preferred an appeal to the 1st respondent praying that the suspension period be treated as on duty and also made requests in that regard, but the same were not considered.

It is the case of the petitioner that criminal proceedings were also initiated against him in C.C.No.153 of 1990 for the very same

alleged misconduct and, on an application, being Crl.M.P.No.366 of 1991, seeking discharge from the case, he was acquitted by the learned Judicial Magistrate of First Class, Vayalpad, by an order dated 04.10.1991. The order passed by the 2nd respondent is illegal since, while holding that the charge framed against him was dropped, the punishment of censure was awarded. When he was taken back into service by dropping the charges, the period of suspension ought to have been treated as on duty. Therefore, he is entitled for the salary during the period of suspension i.e. from 23.07.1986 to 27.09.1988. According to him, the 1st respondent has not even bothered to look into the appeal preferred by him. Hence, this writ petition.

No counter is filed by the respondents.

A perusal of the impugned order shows that considering the refund of margin money/subsidy to Government and clearance of loan dues to the Bank, a lenient view has been taken and it was decided to drop the charge framed against the petitioner by awarding punishment of censure and to treat the period of suspension as on leave, for which he is eligible. The petitioner now wants that the said suspension period from 23.07.1986 to 27.09.1988 be treated as on duty and to declare that he is entitled for full pay and allowances and other consequential benefits. I do not see any illegality in the impugned order to interfere with the same under Article 226 of the Constitution of India. Further, the order was passed on 28.12.1993 and this writ petition is filed in the year 1997, which itself shows that the writ petition suffers from irretrievable laches. Further, it is curious to note that the petitioner filed this writ petition after his retirement and when he was aged about 59 years in the year 1997. Now, the age of the petitioner might be 69 years. The writ petition is devoid of merits and is liable to be dismissed for all these reasons.

The writ petition is accordingly dismissed. No costs.

C.V. RAMULU, J

10th April, 2007.
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